Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Comments on Joint Board Second Recommended Decision	)	DA 98-2410
	)	

REPLY COMMENTS OF U S WEST COMMUNICATIONS, INC.
<u>TO JOINT BOARD'S SECOND RECOMMENDED DECISION</u>

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SUMMARY

The Joint Board starts by ignoring Congressional intent. Notwithstanding its conclusion, there is no prerequisite in Section 254 of the 1996 Act to demonstrate that implicit support which non-rural LECs have historically received has eroded before a sufficient and explicit federal support mechanism is put in place. The Joint Board's Second Recommended Decision turns Congressional intent on its head.

U S WEST agrees that federal support funds must be directed to non-rural carriers to offset high intrastate costs in states with insufficient resources. However, the Joint Board makes this goal unattainable by changing its position and recommending that the Commission abandon its efforts to target support to those high cost areas in states who need the most help.

While the Joint Board recommends that the size of the federal high cost fund remain at or near its current level, there is no evidence in the record to support such a recommendation, particularly when coupled with the Joint Board's other recommendation that federal support must be directed to carriers in states who have insufficient state resources to continue to ensure affordable universal service for the residents in their state. The lack of support in the record for some of the Joint Board's conclusions and the logical inconsistency of some of its recommendations cast doubt on the merits of many of the Joint Board's views.

Reasonable mechanisms, such as the Superbenchmark Approach or the Multiple Benchmark Approach, have previously been presented to the Commission. Either approach will maintain the continuity of the federal-state partnership and

will permit sufficient federal support to be targeted to non-rural carriers to offset costs in states with insufficient resources to ensure affordable and reasonably comparable rates.

If support is targeted, as the Commission previously concluded it should be, the Commission should also act to ensure that such support is explicit, as required by Congress, and require all contributors to recover their contributions directly from consumers through a uniform mandatory retail end-user surcharge on interstate and intrastate revenues.

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U S WEST Communications, Inc. ("U S WEST") hereby submits its Reply Comments to the Federal-State Joint Board's Second Recommended Decision[1] pursuant to the Public Notice.[2]

I. THE JOINT BOARD'S RECOMMENDATION THAT "CURRENT CIRCUMSTANCES" DO NOT WARRANT A SIGNIFICANTLY LARGER FEDERAL HIGH COST SUPPORT MECHANISM IS BASED UPON A MISTAKEN UNDERSTANDING OF CONGRESSIONAL INTENT

In the Second Recommended Decision, the Joint Board said that it does not believe "that current circumstances warrant a high cost support mechanism that results in a significantly larger federal support amount than exists today"[3] because "[i]ncumbent LECs to date have not demonstrated that implicit support has eroded

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[1] In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Second Recommended Decision, FCC 98J-7, rel. Nov. 25, 1998 ("Second Recommended Decision").

[2] Public Notice, DA 98-2410, rel. Nov. 25, 1998 ("Notice").

[3] Second Recommended Decision ¶ 49.

as a result of competition."[4] Several commenters agree with the Joint Board's conclusion and its recommendation that the Commission must limit the size of the federal high cost fund.[5]

The state commissions for several urban states (Maryland, Connecticut, Delaware, Illinois, Massachusetts) echo the Joint Board's sentiment:

> Congress' enactment of section 254 was based on the fundamental premise that local competition would necessitate a system of explicit support to maintain affordable rates. The 1996 Act mandates construction of an explicit universal service funding mechanism to ensure "sufficient" funding if and when competition erodes implicit subsidies. . . .
>
> Because there is currently limited local competition, additional high cost funding is not necessary. Additional universal service support should not flow until competition actually develops and then only if necessary. If additional federal support is needed after competition begins at the local level, the issue can be addressed at that time with the benefit of actual data. It has not been demonstrated that the non-rural carriers require additional federal universal support under present conditions.[6]

However, as U S WEST pointed out in its Comments, there is no prerequisite in Section 254 of the 1996 Act to demonstrate that implicit support which non-rural local exchange carriers ("LEC") have historically received has eroded before a sufficient and explicit federal support mechanism is put in place.[7] Today, a declining amount of implicit support flows to non-rural LECs from interstate and

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[4] Id. ¶ 50.

[5] MCI at 1; Maryland, Connecticut, Delaware, Illinois, & Massachusetts at 6.

[6] Maryland, Connecticut, Delaware, Illinois, & Massachusetts at 6. The Ohio Commission from another populous urban state also erroneously believes that incumbent LECs must demonstrate that implicit support for universal service has eroded before any expansion of the funding level for non-rural LECs can be considered. Ohio at 2-3.

[7] U S WEST Comments at 6.

intrastate access, intraLATA toll, business local exchange services, and vertical services because of competition. It is inappropriate to assume, as the Joint Board does, that the focus should be only on the development or lack of development of competition in the local market to determine whether implicit subsidies which have supported universal service are eroding. Even without substantial and diverse competition in some local markets, implicit subsidies are eroding the historical funding base for universal service.

Because Congress chose to foster the opening of the local market to competition when it enacted the 1996 Act which would result in a reduction of implicit support revenues generated by intrastate and interstate access, intrastate intraLATA toll service, business local exchange services, and local features -- all of which have generated implicit subsidies for universal service -- Congress directed the Commission to abolish the old system of implicit support and replace it with explicit and sufficient new funding mechanisms to support universal service. Moreover, Congress directed the Commission to complete implementation of the new support mechanisms <u>before</u> implicit subsidies were eroded.[8] Implicit subsidies from intrastate intraLATA toll services have already been reduced, even before the Commission intervened in the arena. Similarly, implicit subsidies have also eroded as a result of the Commission's <u>Orders</u> in the Local Competition docket and the Access Charge Reform docket[9] and as a result of state commission arbitration and

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[8] 47 U.S.C. § 254(a)(2).

[9] <u>In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, First Report and Order,</u> 11 FCC Rcd. 15499

pricing orders.[10] The Joint Board and some state commissions in populous urban states erroneously ignore this mandate of Congress.

Conversely, a large number of commissions in less populous, rural states where local competition may not be widespread (Arkansas, Kansas, Maine, Montana, New Hampshire, New Mexico, Vermont, West Virginia) ("Rural States") see the present threat to universal service in their states and understand what Congress intended:

> The separate statement by Commissioner Schoenfelder recommends that the fund size for non-rural LECs remain at the present level until the Joint Board determines that competition has eroded implicit support for universal service. This incorrectly infers that the requirements of Section 254 are predicated on the development of local competition. On the contrary, Section 254 of the Act simply and unconditionally requires a sufficient federal universal service fund to produce comparable rates between urban and rural areas. Even if competition should fail to appear everywhere, Section 254 still requires a larger federal universal service fund because the existing high cost fund program is not sufficient and does not produce reasonably comparable rates.[11]

U S WEST agrees with these Rural States and with their analysis of the plight they face in maintaining affordable universal service for their residents.

The Joint Board not only starts with an erroneous assumption of Congressional intent regarding when implicit support mechanisms should be replaced by explicit support, but the Joint Board also makes two recommendations

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(1996); In the Matter of Access Charge Reform, First Report and Order, 12 FCC Rcd. 15982 (1997).

[10] Moreover, some commenters suggest that the current system of implicit subsidies is itself a "major barrier to the development of competition in rural and high-cost areas." Western Wireless at 6.

[11] Rural States at 6.

with regard to the size of the fund which are logically inconsistent. On the one hand, the Joint Board recognizes that some states may not be receiving support sufficient to allow reasonably comparable rates and, therefore, it recommends "directing sufficient federal support to non-rural carriers to offset high intrastate costs in states with insufficient internal resources to ensure affordable and reasonably comparable rates."[12] On the other hand, the Joint Board says that it does not believe "that current circumstances warrant a high cost support mechanism that results in a significantly larger federal support amount than exists today."[13]

However, as the state commissions for the Rural States point out, there is no basis in the record for the recommendation that the size of the high cost fund should remain at or near today's levels.[14] U S WEST agrees with the Rural States that, absent a finalized cost model populated with cost data, "it is logically impossible to determine whether a fund 'at or near today's levels' will meet the statutory criteria."[15] In addition, the Rural States point out that the Joint Board's support of hold-harmless protection "substantially increases the size of the federal support amount."[16] U S WEST agrees with the Rural States that the Joint Board cannot have it both ways:

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[12] Second Recommended Decision ¶ 4.

[13] Id. ¶ 49.

[14] Rural States at 3.

[15] Id.

[16] Id. at 4.

> If the Commission should provide hold-harmless protection and simultaneously prevent any increase in fund size, the result is very likely to be a federal fund that is insufficient to ensure reasonable comparability.[17]

II. U S WEST AGREES WITH THOSE COMMENTERS WHO FIND FAULT WITH THE JOINT BOARD'S REVERSAL OF POSITION BACKING AWAY FROM TARGETING FEDERAL SUPPORT TO THOSE HIGH COST RURAL STATES WHO NEED HELP

Federal high cost support must target those less populous rural states who need help to maintain universal service. In the Universal Service Order based upon the Joint Board's original recommendation, the Commission directed developers and sponsors to design their forward-looking economic cost models to target support over a smaller geographical area such as a wire center, a Census Block Group, a Census Block, or a grid cell. "The cost study or model must deaverage support calculations . . . ."[18]

However, in the Second Recommended Decision, the Joint Board reversed direction and recommended that federal support be determined "by measuring costs at the study area scale, a scale considerably larger than the wire center."[19] As U S WEST pointed out in its Comments, this recommendation is at odds with the goal of targeting those areas and states which need help from the federal support

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[17] Id.

[18] In the Matter of Federal-State Joint Board on Universal Service, Report and Order, 12 FCC Rcd. 8776, 8899-900 ¶¶ 225-26 (1997) ("Universal Service Order"); appeal pending sub nom. Texas Office of Public Utility Counsel v. FCC, No. 97-60421 (5th Cir. 1997).

[19] Second Recommended Decision ¶ 43.

mechanism.[20] Not surprisingly, a large number of state commissions in predominantly rural states agree with U S WEST's criticism.

The Wyoming Commission correctly identifies the deficiency in the Joint Board's reasoning:

> The WPSC [Wyoming Public Service Commission] asks that the Commission reconsider the Joint Board recommendation that federal support initially be determined by measuring costs at the study area level of detail. We believe that adoption of the Joint Board's recommendation in this regard may disadvantage the development of competition or, more importantly, prevent rates from remaining affordable in certain areas. It also seems inconsistent with a statement in a later section of the Recommended Decision that the distribution methodology is "grounded in the principle that additional federal high cost support should be targeted to areas with the greatest need."[21]

U S WEST also agrees with the following state commissions who criticize the Joint Board's recommendation to use study area cost-averaging:

Iowa:

> The goal of universal service in the 96 Act is to assure that consumers in rural and high-cost areas have access to high quality basic and advanced telecommunications services that are comparable in both offerings and rates to those services offered in urban areas. This requires the specific targeting of support to rural and high-cost areas and does not allow the averaging of these areas with urban areas.[22]

Kentucky:

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[20] Without attempting to understand why rural states are concerned about this recommendation, AT&T cavalierly endorses the Joint Board's position: "The Joint Board recommendation that the need for support should calculated at the study area level is entirely correct." AT&T at 4. "[T]here is absolutely no need to calculate support at anything other than the study area level." Id. at 5. As a carrier serving predominantly populous urban states, Bell Atlantic also endorses the Joint Board's recommendation. Bell Atlantic at 5.

[21] Wyoming at 4.

[22] Iowa at 2.

> Using study areas, rather than wire centers or smaller geographic areas, works to either preserve existing urban to rural implicit subsidies or could create inadequate federal support to the states.[23]

Colorado:

> The Joint Board recommended that federal support only be available to non-rural carriers serving consumers in areas when their costs are significantly above the national average and the average costs throughout its study area significantly exceed the national average. The use of the second criteria (average study area cost) seems inappropriate. . . . The use of a criterion such as study area averaging seems to continue the notion that the implicit contribution from low-cost areas to high cost areas can be sustained in the face of competition for low-cost, high-profit customers. The ability to continue to support universal service through the use of implicit support from higher rates in low cost areas is likely no longer sustainable in the face of competitive entry.[24]

The General Services Administration also finds fault with the Joint Board's recommendation to use study-area-wide averaged costs:

> Averages based on census definitions or wire center service boundaries are preferable, because both measure costs and competitive activity with greater precision than possible with averages for study areas. . . .
>
> * * *
>
> In summary, averages based on study areas will not be sufficient. GSA recommends that all of the available tools be employed to obtain the greatest possible accuracy in the estimate of high-cost support requirements.[25]

For a different reason, i.e., to promote competitive entry while ensuring competitive neutrality at the same time, MCI also supports distributing federal

[23] Kentucky at 2.

[24] Colorado at 3.

[25] GSA at 13-14.

support funds to target the "geographic cost zone level" rather than on a study area averaged cost basis:

> [C]alculating costs at a study area rather than geographic cost zone level provides no guidance on how to distribute the fund when there are CLECs as well as the ILEC providing service in the study area since it does not distinguish between high-cost and low-cost areas within the study area . . . .[26]

III. U S WEST AGREES WITH THOSE COMMENTERS WHO SAY THAT REASONABLE MECHANISMS HAVE BEEN PRESENTED TO THE COMMISSION WHICH WOULD PROVIDE SUFFICIENT FEDERAL SUPPORT TO NON-RURAL CARRIERS TO OFFSET COSTS IN STATES WITH INSUFFICIENT RESOURCES TO ENSURE AFFORDABLE AND REASONABLY COMPARABLE RATES

A. The Joint Board Recommended That Federal Support Funds Be Directed To Non-Rural Carriers To Offset High Intrastate Costs In States With Insufficient Resources

Some commenters, principally representing large urban state interests, urge adoption of the view that monies contributed by their urban subscribers to the federal high cost support mechanism should not be used to support universal service in a distant high cost rural state. The California Commission expresses concern with the Joint Board's recommendation to broaden the meaning of "reasonable rate comparability" to include urban and rural rates among states as well as within a state. The California Commission is concerned "that the expanded standard could compel California's urban ratepayers to subsidize rural customers, such as farmers in Montana."[27]

Bell Atlantic, who provides service to subscribers principally in high density urban states, has a similar concern:

[26] MCI at 15.

> As is the case today, the Commission should agree with the Joint Board that federal support should be narrowly limited to assisting those states that "face significant obstacles in maintaining reasonably comparable rates." This preserves the historical federal-state roles and prevents the dislocations that would come from requiring ratepayers in one state to support rates in high cost areas of other states that can maintain comparable rates through their own internal universal service mechanisms.[28]

The predominantly low density high cost rural states share a common fear and concern -- the concern that federal support mechanisms as envisioned by the Joint Board will not be sufficient to maintain universal service for many of the residents in their states. Nevertheless, they also acknowledge that they share in the responsibility to do what they can to ensure that their residents continue to have affordable service. As the Wyoming Commission said:

> We also support the concept of continuing the partnership between the state and federal jurisdictions in which states make reasonable efforts to keep rates *affordable* but the federal mechanism will assist in keeping rates affordable where states cannot do so alone.[29]
>
> One commenter recommends that the Commission re-examine the "superbenchmark" approach, one version of which was proposed by U S WEST and another by GTE. Either approach would allow support to be targeted to those areas and states which need help. These approaches would maintain the federal-state jurisdiction partnership and use the federal funding mechanism above a superbenchmark to provide assistance to those states who cannot keep rates sufficiently affordable to cover supra high costs which carriers experience in their state.

The Iowa Utilities Board recommends that the Commission re-examine the superbenchmark approach as a fair and reasonable means to balance the interests of high density low cost urban states and low density high cost rural states:

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[27] California at 7.

[28] Bell Atlantic at 4.

[29] Wyoming at 2.

The IUB [Iowa Utilities Board] urges the FCC to look at other means of controlling the size of the fund, such as the U S West super benchmark approach. The IUB agrees that universal service is a shared responsibility. The federal mechanism should properly size the support needed for universal service and then determine the respective shares that should be born by the federal fund and the state fund. The IUB recommends an approach that would establish the entire support needed for each state and establish the maximum amount that a state should be required to bear to support universal service.[30]

B. The Superbenchmark Or Multiple Benchmark Approach Provides A Mechanism To Ensure That Support For Supra High Cost Areas Served By Non-Rural LECs Will Be Sufficient

Both a Superbenchmark Approach and a Multiple Benchmark Approach have been proposed for fund calculation and distribution. The benchmark approaches are only effective if combined with geographic targeting of support at or below a wire center level. As discussed above, the study area averaging recommended by the Joint Board destroys the effectiveness of any federal high cost program.

1. The Superbenchmark Approach

The Superbenchmark Approach was proposed and explained by U S WEST in comments dated May 15, 1998 in this docket.[31] U S WEST referred to its proposal at that time as the Interstate High Cost Affordability Plan ("IHCAP"). It offered an alternative to the dilemma which the Commission's original 25/75 Plan had created for predominantly rural and less populous states. Like the 25/75 Plan, the Superbenchmark Approach leaves the primary role for assuring the continued availability of affordable service with the states. But it also provides additional

[30] Iowa at 5-6.

[31] Comments of U S WEST Communications, Inc. On Proposals To Revise The Methodology For Determining Universal Service Support, May 15, 1998.

federal assistance just for the very high cost areas in a state.

The Superbenchmark Approach is a hierarchy of benchmarks which differentiates between: (1) those areas within a state which require no federal support, (2) those high cost areas in a state which require some federal support, and (3) those supra high cost areas in a state which require substantial federal support.

The Superbenchmark Approach permits the Commission to target those supra high-cost areas in low density high cost rural states. It could consist of the following hierarchy:

(1) The federal fund would provide no explicit support for loop costs for which the forward-looking costs are $30 or less.

(2) The federal fund would provide explicit support for 25% of forward-looking loop costs between a Primary Benchmark of $30 and a Superbenchmark of $50, and the states would provide support for 75% of the costs between these Benchmarks as they would under the Commission's original 25/75 Plan.

(3) For those supra high cost areas where the per-customer cost of supporting universal service under the Commission's original 25/75 Plan could become so high that service could become unaffordable, the Superbenchmark Plan would provide federal funding for 100% of the forward-looking loop costs above the $50 Superbenchmark.

By leaving primary responsibility for most of the costs of universal service with the states, state commissions would be able to devise manageable rate rebalancing and/or explicit funding plans which are right for their local markets and customers.

The Superbenchmark Approach would result in the minimum interstate fund size to achieve the universal service goals of Congress. It would be competitively neutral. It would be simple and straightforward and it could be implemented by July 1, 1999 for all non-rural LECs.

2. The Multiple Benchmark Approach

During the same comment cycle the Multiple Benchmark Approach was proposed by GTE as an alternative to the Commission's original 25/75 Plan. Like U S WEST, GTE believed that the calculation of the initial level of universal service support should be based on a sliding scale of benchmarks and percentages rather than upon a single benchmark such as that in the Commission's original 25/75 Plan.[32]

> US West proposed a plan which incorporates a second benchmark. . . . GTE believes that this approach is more promising than the single-benchmark structure; in its earlier comments, GTE has also proposed a two-benchmark plan. The addition to the second benchmark, and the Federal/state split between the two benchmarks, provides the plan with additional degrees of freedom, which in turn will allow the Commission to more accurately target support to meet its policy goals. The second benchmark provides a simple mechanism for supporting high-cost states or areas where rate rebalancing would yield competitively unsustainable, unaffordable rates that threaten universal service.[33]

GTE suggested some variations to the Superbenchmark Approach:

(1) 2 Benchmark Plan (Benchmarks of $30 & $50 or $25 & $40):

(a) The federal fund would provide no support for loop costs which

[32] Proposal of GTE, filed Apr. 27, 1998 at 21.

[33] Id. at 21-22 (footnote omitted).

are less than the Primary Benchmark of $25 or $30;

(b) The federal fund would provide support for 50% of loop costs between the Primary Benchmark of $25 or $30 and the Superbenchmark of $40 or $50, and the states would provide support for 50% of the costs between these Benchmarks; and

(c) The federal fund would provide support for 100% of the costs above the Superbenchmark of $40 or $50.

(2) 3 Benchmark Plan ($20, $25, $40)

(a) The federal fund would provide no support for loop costs which are less than the Benchmark of $20;

(b) The federal fund would provide support for 25% of loop costs between the Benchmarks of $20 and $25, and the states would provide support for 75% of the costs between $20 and $25;

(c) The federal fund would provide support for 50% of the loop costs between the Benchmarks of $25 and $40, and the states would provide support for 50% of the costs between $25 and $40; and

(d) The federal fund would provide support for 100% of the costs above the Superbenchmark of $40.

The Multiple Benchmark Approach permits even more refined sharing arrangements between the federal fund and the states. The Superbenchmark Approach and the Multiple Benchmark Approach are both reasonable accommodations for the financial challenges faced by low density high cost rural states. They both start with and continue the state-federal universal service partnership. They both place the initial and primary responsibility for universal service with the states. They both target federal support funds to the supra high cost customers in a carrier's state. They both balance fairly and reasonably the divergent interests and needs of dissimilar states such as California and Wyoming.

IV. U S WEST AGREES WITH THE JOINT BOARD AND THOSE COMMENTERS WHO SUPPORT THE USE OF A FORWARD-LOOKING COST MODEL; OTHER COMMENTERS WHO DO NOT SUPPORT A MODEL APPROACH FOR NON-RURAL HIGH COST SUPPORT HAVE TAKEN A GIANT STEP BACKWARD FROM THE COMMISSION'S UNIVERSAL SERVICE ORDER

U S WEST and numerous commenters continue to support the use of a forward-looking cost proxy model to size and distribute the amount of support necessary for high cost areas.[34] The development of a forward-looking model has been thoroughly debated throughout this docket and the Commission and Joint Board rightfully continue to support the use of a model as the most appropriate and competitively neutral mechanism for determining high cost funding. A key tenant of the Commissions universal service investigation before and after the 1996 Act was to improve its existing funding mechanism which relied on study area averaging for non-rural companies. Most parties agreed that the key was to target support to high cost areas and to remove the implicit support inherent in the cost averaging of large companies. The best and only way to properly target this support was with a cost model.

The Commission should not take a huge step backwards in the progress that has been made to date in the development of its universal service mechanism.

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[34] See, e.g., Rural States at 4; Sprint at 10; Wyoming at 6; AT&T at 4; MCI at 10.

Parties who do not support the use of a model for determining support for high cost areas clearly have their own agenda in mind which does not include support for high cost customers. Their only goal is to keep the high cost fund as small as possible or to maintain the explicit fund for high cost areas at present levels. The effectiveness of properly targeting support and sufficiently sizing the fund works against their self-interest.

V. U S WEST AGREES WITH THOSE COMMENTERS WHO SAY THAT THE COMMISSION SHOULD REQUIRE ALL CONTRIBUTORS TO RECOVER THEIR CONTRIBUTIONS DIRECTLY FROM CONSUMERS THROUGH A UNIFORM MANDATORY RETAIL END-USER SURCHARGE ON INTERSTATE AND INTRASTATE REVENUES

In the Universal Service Order, the Commission concluded that non-price cap contributors to the universal support programs should have the flexibility to decide how to recover their universal service contributions,[35] either through their rates or directly from their customers. However, the Commission also concluded that incumbent LECs who are subject to price cap regulation would only be permitted to add their universal service contributions to their common line basket and to recover their contributions in the same manner as common line charges.[36] The Commission's recovery rules require price cap LECs to disguise their support for universal service as an implicit subsidy in their access rates. These different recovery rules discriminate in favor of non-price cap providers and do not maintain competitive neutrality between and among price cap and non-price cap providers. Because these rules require price cap LECs to mask their support for universal

[35] Universal Service Order, 12 FCC Rcd. at 9210-11 ¶ 853.

service as an implicit subsidy, they also violate Section 254(e) of the 1996 Act.

The Commission's flexible recovery rule for non-price cap providers, such as interexchange carriers, wireless carriers, facilities-based competitive LECs, and resellers, has already resulted in customer confusion and complaints. The Joint Board recommends that the Commission adopt stern measures to control how non-price cap LECs may "speak" to their customers in the customer's bill about how much non-price cap LECs have contributed to universal service and how much they seek to recover from the customer. However, even if the Commission adopts the Joint Board's recommendation to promulgate stern rules regarding their billing speech, non-price cap providers are not required to follow the rules, because they remain free not to bill their customers at all or to recover their contributions directly in the rates for their services. U S WEST disagrees with the Joint Board's recommendation for both public policy and constitutional reasons.

As U S WEST suggested in its Comments, the Commission should reaffirm its goal of ensuring competitive neutrality among <u>all</u> providers and contributors, reject the artificial distinction which the Commission's recovery rules have created, and require all contributors -- both price cap and non-price cap carriers -- to recover their contributions in the same manner.[37] U S WEST recommended that the Commission require recovery via a mandatory retail end-user surcharge on interstate and intrastate revenues. BellSouth, GTE, and USTA agree with U S WEST's recommendation.

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[36] <u>Id.</u> at 9171 ¶¶ 772-74.

BellSouth says: "With regard to recovery of universal service contributions, it is important for the Commission to make clear that incumbent local exchange carriers have the right to recover universal service contributions in the same manner as other telecommunications carriers, including a separate line item on an end user's bill."[38]

GTE says: "GTE urges the Commission to clarify that any carrier, including an ILEC, may recover its contribution from its customers through a separate line item on the customer's bill. This is a particularly important issue of competitive neutrality for ILECs, such as GTE, that do not have the freedom to adjust their rates that other carriers have."[39]

USTA says: "The Recommended Decision states that a carrier should have the option of recovering its contributions from end-users through a line-item charge on its bills. This issue is of vital importance to carriers, and USTA advocates that the Commission affirm the Joint Board's recommendation to allow carriers to recover their contributions to the universal service fund from end-users."[40]

Even MCI agrees that incumbent LECs should not be required to recover their contributions as disguised implicit subsidies in their access charges to interexchange carriers.[41] To fulfill the requirement of Section 254(e) that support

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[37] U S WEST Comments at 13-17.

[38] BellSouth at 9.

[39] GTE at 32.

[40] USTA at 10.

[41] MCI at 18 n.5.

for universal service is explicit, U S WEST agrees with MCI that all providers should be required to recover their universal service contributions from end-user customers.[42]

Recovery of contributions by all providers as a uniform mandatory retail end-user surcharge on interstate and intrastate revenues would restore competitive neutrality between and among providers. It would also correct the defect in the Commission's current recovery rules by requiring all contributors to treat their contributions as explicit support for universal service as required by Section 254(e) of the 1996 Act. U S WEST urges the Commission to require all contributors to recover their contributions as a uniform mandatory retail end-user surcharge on interstate and intrastate retail revenue.

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[42] Id. at 18.

VI. CONCLUSION

U S WEST respectfully requests that the Commission consider these suggestions in connection with the design and implementation of a federal high cost support mechanism by July 1, 1999 for non-rural LECs.

Respectfully submitted,

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January 13, 1999

CERTIFICATE OF SERVICE

I, Rebecca Ward, do hereby certify that on this 13th day of January, 1999, I have caused a copy of the foregoing **REPLY COMMENTS OF U S WEST COMMUNICATIONS, INC. TO JOINT BOARD'S SECOND RECOMMENDED DECISION** to be served, via first class United States mail, postage prepaid, upon the persons listed on the attached service list.

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